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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,855	09/09/2003	Lee Remmers	10787.0049.C	2124
28997	7590	09/22/2004	EXAMINER	
HARNESS, DICKEY, & PIERCE, P.L.C 7700 BONHOMME, STE 400 ST. LOUIS, MO 63105			LE, TAN	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 09/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,855

Applicant(s)

REMMERS, LEE

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-9 and 14-17 is/are allowed.
- 6) ☒ Claim(s) 2,10,11 and 13 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/24/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the second office action for serial number 10/657,855. This application contains claimed numbered 1-20. Claims 4-20 have been added by the amendment filed 6/14/04.
2. The IDS filed on June 04/2004 has been considered.
3. The terminal disclaimer filed 6/14/04 has been considered.
4. The formal drawings submitted on 6/14/04 has been approved
4. Newly submitted claims 18-20 directed to an invention that is independent and distinct from the invention originally claimed for the following reasons: Claim 18 claims the support portion having an upper support surface and *an extension extending generally upwardly from the upper support surface*; and the opening having a *notch that receives the extension of the support portion*, which is distinct and belongs to a different species as shown on Fig. 4. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 10-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,110,080 to Rieman.

Regarding claim 2, Rieman discloses a holding strip for suspension bars comprising a track (7) having means (2) for supporting a standard (8); the standard having means (9) for receiving a shelf bracket; and a shelf (not shown) (see abstract).

Regarding claims 10-11 and 13, Rieman as evidently shown on Fig. 2-5 also discloses all the subject matter of claims 10-11 and 13.

Allowable Subject Matter

6. Claims 1, 3-9 and 14-17 are allowed.

Claim 12 is objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 6/14/04 have been fully considered but they are not persuasive.

Applicant argued that Rieman patent does not describe structure corresponding to the "means for supporting a standard" as disclosed in Applicant's specification. This is not found persuasive. Examiner respectfully asserts that Rieman patent describes a structure corresponding to the means-plus-function as claimed. Applicant argued the means-plus-function but fails to explicitly identify the corresponding structure to the means-plus-function, particularly, the "means for supporting a standard" as recited in claim 2, at least in the argument. Nevertheless, the structure corresponds to the recited function referring to the "means for supporting a standard" includes the support portion

Art Unit: 3632

(120) comprising an upper surface 140 and a bottom surface 150 as basically shown on Fig. 1 of the case.

The examiner has considered claim 2 under 35 U.S.C 112, sixth paragraph and the rejection was based upon the broadest reasonable claim interpretation set forth in the previous office action. Reiman discloses a track (7) having means (2) for supporting a standard (8), and the means in this case having an upper surface and lower surface. Reiman structure appears to perform identical function in substantially same way and produce substantially same results. Reiman structure can also be considered as an equivalent structure as disclosed by Applicant.

Applicant's argument with regarding the holding edge (2) of Reiman as being bent obliquely upward and inward to the slot 10 and pointed to the difference with his means. This appears to be not included in what Applicant regards as "means for supporting a standard" as recited in claim 2.

Applicant's argument with respect to Bastian is persuasive. The rejection based on Bastian is therefore withdrawn.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3632

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244. The examiner can normally be reached on Mon. through Fri. from 9:00AM –6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le
September 15, 2004



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER